LOCAL AUTHORITIES PENSION PLAN BOARD

1988 ANNUAL REPORT

Alberta

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1203, Legislature Annex, 9718-107 Street, Edmonton, Alberta, Canada T5K 1E4 403/427-7105

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the third report of the Local Authorities Pension Plan Board for the period January 1, 1988 to December 31, 1988. The report outlines the role and responsibilities of the Local Authorities Pension Plan Board under legislation governing the plan.

Case summaries and summaries of recommendations made are included to provide an indication of our activities during the twelve month period under review. Comments made on all aspects of the plan have been presented with the view of strengthening the plan.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

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INTRODUCTION

Hearings

The Local Authorities Pension Plan Board in conducting hearings ensures appellants have an opportunity to present their case personally if they wish. No technical rules of evidence govern the hearings.

Administrative tribunals are established to provide judgement in areas where considerable expertise, in the field, is required. The Board has established its own procedure for hearings and a brochure is distributed to appellants for information. Several appellants elected to be represented by a solicitor or other advocate in the hearings during the reporting year.

In addition to the responsibility in the area of appeals and applications, the Board is charged by the Act to provide advice to the Minister on all aspects of the plan.

During 1988, the Board held 12 meetings in which 27 hearings were conducted to deal with 24 cases.

Recommendations

Arising out of the hearings and review of studies and plan operation, the Board has presented several recommendations to the Minister. In making each recommendation an attempt is made to ensure the continuation and financial soundness of the current pension system and the delivery of pension promises made to plan members. With these in mind several suggestions are made to deal with contributions and benefit structure.

Board Membership

Board members represent a varied background of expertise and interested parties associated with the plan. All members, except the Chairman, serve on a part time basis. The Chairman is appointed by an Order in Council and has responsibilities as Chairman of the Boards of four other Government Plans[1] and is also a member and Vice Chairman of the Board of Administrators of the Teachers' Retirement Fund.

Actuarial Report

While the Board continues to be concerned about the conservative assumptions and methods used in evaluating the plan, we are comforted by the statement as to the purpose of the study and that the assurance that the percentage of payroll revealed by the study is not to determine the appropriate contribution for current service.

The review of the Actuarial study as at March 31, 1988, which was conducted to determine the Government's financial exposure to the legislated guarantee of benefits, revealed an accrued liability of $3.854 billion. There is no segregated fund or assets assigned to the Local Authorities (LAPP) Pension Plan. The total amount of the accrued liability has been accepted by the Government. The Government has established a general revenue fund entitled "The Pension Fund" to assist in meeting the total accrued liability for all five plans. The "Fund" as of March 31, 1988 was reported at $4.3 billion. As reported in the Public Accounts of the province, the accrued liability for all pension plans is $8.9 billion. The share of the liability created by the LAPP is $3.845 billion, or 43% of the total fund. It is the view of the Board that a more meaningful statistic is the current service funding ratio. As of March 1988, the members and employers are currently contributing 10.2% of payroll. The Current Service Cost is 11% based on the Unit Credit Method of evaluation. This results in a shortfall of 0.8%. Planned increases in the contribution level should erase this shortfall in 1989. The plan will then be on a healthy fiscal basis for the current service. The accrued liability remains a major concern and must be addressed.

Plan Statistics

There are 67,600 members, an increase of 12% since 1984. The average age of a plan member at entry into the plan is 32.8 years. The average service under the plan is 8.1 years. The male-female ratio split in the plan is 45% male and 55% female. The average salary

Includes the Public Service Pension Plan. the Public Service Management Pension Plan, the Universities Academic Pension Plan, and the Special Forcies Pension Plan

earned during 1988 by plan members is $29,015 per annum. As at March 1988, there were 12,801 pensioners receiving an average pension of $8 ,797. The number of pensioners increased 53.6% and the average annual pension increased 18.7% over the 1984 average.

Cost of Living Adjustments

The Government continued its policy of adjusting pensions to offset the impact of inflation. During 1988, the adjustment was 2.0% while the Consumer Price Index for Alberta was 2.05%, thus the adjustment provided for those who retired in 1988 and earlier was 97.5% of the Alberta Consumer Price Index.

Training and Information

In October a seminar was conducted, which included all the members of the Government administered plans. Joining the members of the Public Service Pension Plan, Public Service Management Pension Plan, Local Authorities Pension Plan, Special Forces Pension Plan, Universities Academic Pension Plan, were representatives from other Pension Boards, various Departments of Government, major Municipal Governments, and several employee associations. Sixty five members, staff, and guests were provided with excellent insight from speakers dealing with a variety of topics. The topics included updates in investment strategy and administrative procedures. In addition a detailed review of the proposed Federal Government Taxation Legislation was presented for information. Dr. David Slater, Advisor to the Ontario Government on Public Service Pensions, presented a lecture using his report "A Fresh Start" as the basis of the discussion. Ms. Anne de Villars, of de Villars Jones, conducted a review of the appeal process and touched on the Board's responsibility and role as an appeal tribunal. The purpose of the seminar was to assist in educating new Board members and other interested participants while providing an update on various issues for existing members.

The seminar also provided an opportunity to honour several former Board members. At a luncheon, appreciation and best wishes were expressed to former members of the Board who left during the past year.

Administration

The Director of Payroll and Pensions, at the Board's request, met to discuss some concerns relative to the delay in processing pensions and the increasing number of advances. The Board was assured that the advances increased because all retirees were placed on advances. The overall delay in finalizing pensions was only 3 months. If the delay was longer than three months a special effort was made to clear the file.

THE BOARD

The Board is made up of representatives of various parties participating in the plan. The employees are represented by members who are nominated by the Alberta Federation of Labour and the United Nurses of Alberta. Employers are represented by nominees of the Alberta Urban Municipalities Association and the Alberta Hospital Association. The public at large is represented by a member appointed by the Lieutenant Governor in Council.

The procedure in filling vacancies on the Board requires a nomination by a recognized representative group. Usually two nominations for each vacancy is encouraged and one is appointed from those nominated by the Lieutenant Governor in Council. Individuals serve for a period of four years. The appointments are made on a modified waterfall rotation basis.

During the 1988 reporting period, Mr. J. E. Faries was reappointed as Chairman, Mr. Jack Foley was appointed as a representative of the Alberta Urban Municipalities Association. Mr. Foley replaced Mr. A. Womack who represented the Alberta Urban Municipalities Association since 1977.

The input and experience of Mr. Womack, Mrs. Orieux, and Mr. Hart is appreciated and will be missed during the Board's deliberations. Mr. A. Gunter Bruckner was reappointed as the representative for the Alberta Federation of Labour. Ms. H. Smith was appointed on April 1, 1988 as the representative for the Nurses and Health Care workers, who replaced Mrs. Orieux .

MEMBERS

J. E. Faries
Chairman

Mr. Faries was appointed Chairman effective November 1, 1985. He has considerable background in pension policy and administration, serving over fifteen years as Director of the Pension Administration, until December 31, 1979. He was a founding Director of the Association of Canadian Pension Management and served as Chairman of the Advisory Board of the Employee Benefit Certificate Program of the University of Alberta. He also holds several senior positions on other boards and community organizations. His term of office on the Board expires on April 1, 1992.

A. F. (Chip) Collins
Vice-Chairman

"Chip" Collins served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins was appointed a Board Member and Vice Chairman of the Board effective November 1, 1985. He brings to the Board extensive financial and administrative expertise as well as senior public service experience. Mr. Collins is a government representative. His term of office expires on April 1, 1991.

E. A. Evans

Mr. Evans worked as a tax auditor with the Alberta Government from April 1961 to August 1975 at which time he resigned to take a Union Representative position with the C.S.A. of A. (predecessor of AUPE). His Union activities included serving as staff advisor and chairperson on various committees and the Provincial Executive. He was appointed to the Board on May 21, 1987 and his term of office expires April 1, 1991.

A. G. Bruckner

Mr. Bruckner was appointed to the Board effective November 1, 1985. He worked as an Automotive Mechanic with Calgary Transit and held various positions with the Amalgamated Transit Union and Calgary Civic Employees Benefit Society. He is now full time Financial Secretary/Treasurer and Business Agent with Amalgamated Transit Union (ATU) Local 583. His term of office expires April 1, 1992.

H. Smith

Ms. Smith was appointed to the Board April 1, 1988 as the representative of the United Nurses of Alberta. She graduated from the Algonquin Community College School of Nursing in Ottawa in 1976. Since then she has been a staff nurse at the Edmonton General Hospital. An active member of the United Nurses of Alberta, she has been the President of Local 79 since 1983, and has acted on several of their boards and committees. Her term of office expires on April 1, 1990.

W. Dartnell

Mr. Dartnell is the Alberta Hospital Association's representative on the Board. He was appointed September 15, 1988. Since 1967, Mr. Dartnell has worked in hospital administration, and currently is an Executive Director at the Charles Camsell General Hospital. He was on the Board of Directors of the Alberta Hospital Association from 1982 - 1986, and has also served on a number of their committees. Mr. Dartnell's term of office expires on April 1, 1991.

J. Foley

Educated in Scotland, Mr. Foley has had 25 years of work experience in the British and Canadian Corporate and group insurance industry as underwriter, administrator, and senior consultant. He has also worked as a senior pension administrator and employee benefits planner at both provincial and municipal levels in Alberta. He is currently employed with the City of Edmonton as a Benefits Planning Supervisor. His professional interests includes founding and teaching the Employee Benefits Planning and Administration Certificate Program at N.A.I.T., and sitting on the Canada Pension Plan Appeals Board as Chairman/Member. His term of office expires on April 1, 1992.

STAFF

The Staff of the Chairman's office provides clerical and professional support to the five pension Boards:

-The Local Authorities Pension Plan Board
-The Public Service Pension Plan Board
-The Public Service Management Pension Plan Board
-The Universities Academic Pension Plan Board
-The Special Forces Pension Plan Board

In matters requiring technical advice and support the staff seek assistance from an actuarial or consulting firm. Many working papers are prepared to provide information and background to Board members.

The firm of de Villars Jones has been retained as the legal consultant to provide advice to members.

The staff has provided excellent input which is of great assistance to the Boards.

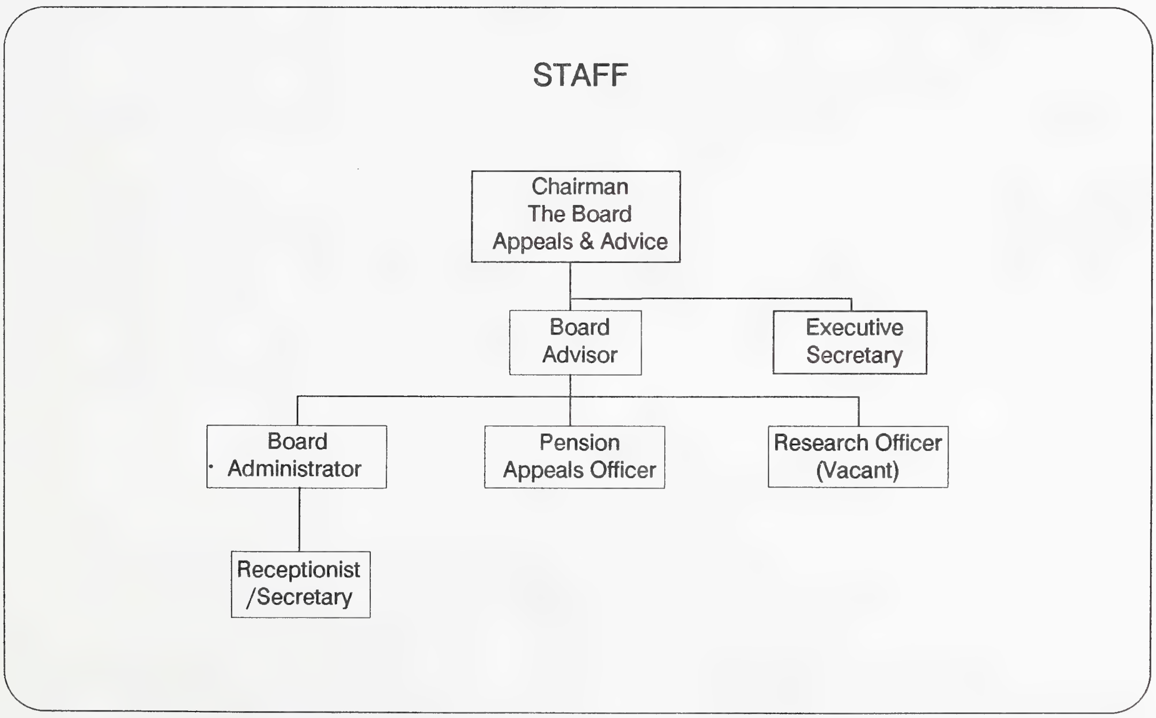


Table 1

SUMMARY OF APPEALS AND APPLICATIONS (1988)

During 1988 the LAPP Board met 12 times and decided on 24 appeals or applications. During 1987, the Board met 10 times and decided on 22 appeals or applications.

The LAPP Board vacated or varied the Minister's decision in 65% of the appeals or applications in 1988 and 77% of the appeals or applications in 1987. For a comparison with other Boards, refer to Tables 3 - 6.

The following table summarizes the appeals or applications for 1988 with comparative figures for 1987.

	1988		1987	
Category	Total # Hearings	Granted/ Varied	Total # Hearings	Granted/ Varied
Reciprocal Transfer	10	39%	6	50%
Section 10	0	0%	4	100%
Section 35	14	61%	12	83%
Total	24		22	

Table 2

Summary of the cases where an appeal or application was filed but the case did not require a hearing by the Board; i.e. request granted by Payroll and Pensions Division or withdrawn by appellant:

1987 - 10
1988 - 5

During 1988, 58 appeals or applications were heard by the five Pension Boards. This compares to 60 heard during the calendar year 1987.

Summary of Number of Cases granted by Payroll and Pensions and/or withdrawn by appellants prior to being heard by the Boards is as follows:

Plan	1988	1987
PSPP	10	3
LAPP	5	10
PSMPP	1	1
UAPP	2	0
SFPP	1	1
Total	19	15

Table 3

Percentage of hearings at which members were represented.

Plan	1988	1987
PSPP	65%	75%
LAPP	70%	64%
PSMPP	100%	90%
UAPP	80%	83%
SFPP	100%	100%

Table 4

A Summary, for all Boards, by type of appeal or application and the percentage is shown on the following page.

SUMMARY OF

APPEALS AND APPLICATIONS RECEIVED

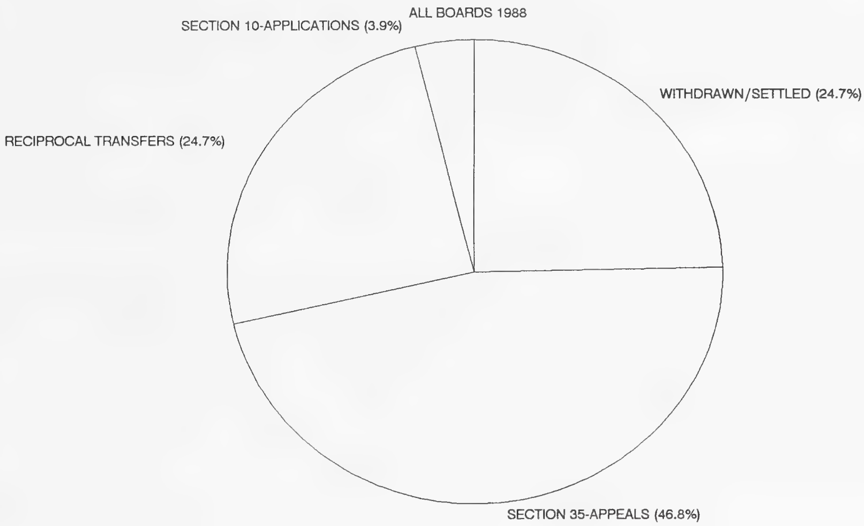


Table 5

DISPOSITION OF APPEALS

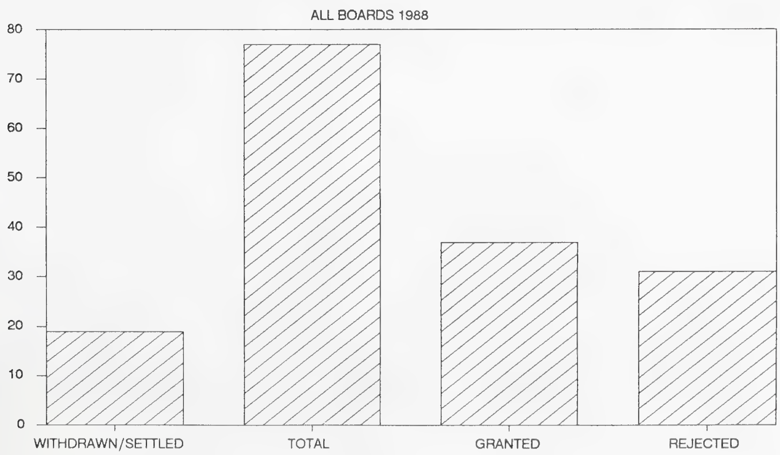


Table 6

HEARINGS

The hearings of the Board are conducted in a relatively informal setting. It is our view that the appellants should be set at ease, therefore all formal trappings are dispensed with during the procedure. The Minister or Payroll and Pensions are represented at over 98% of the hearings.

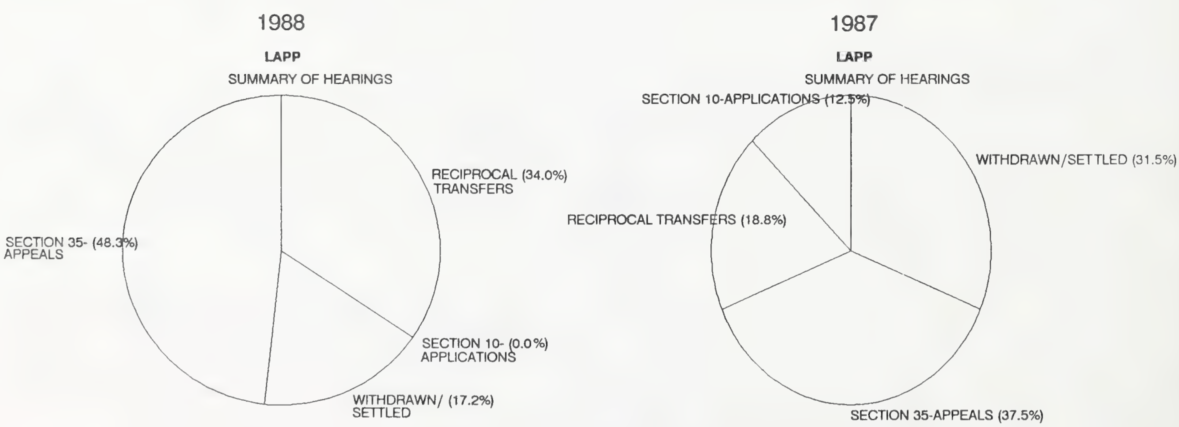
Where no representation is made, in person, the case is heard using written submissions from each party. The Board in considering the cases does not apply technical rules of evidence but adheres to the principles

a) of Natural Justice, and
b) The Duty to be Fair.

An appeal to the court under Section 35 is based on jurisdiction or an interpretation of law. The courts still have under consideration 3 cases appealed during 1987.

Comparisons with all other Alberta Government Pension Boards are included to provide an overall view and disposition of appeals filed under all the plans.

Finally, a summary of cases heard is presented to permit the readers to understand the matters heard and the process and procedure the Board uses in settling cases.



COMPARISON OF TYPES OF CASES RECEIVED IN 1988 WITH THOSE IN 1987

Table 7

CASE SUMMARIES

CASE SUMMARY 1

SUBJECT MATTER

The decision of the Minister to assess prior service requiring the appellant to pay both the employee and employer contributions plus interest.

BACKGROUND

The appellant, while a married female ,was employed by a City from October 22, 1976 to January 1988. The appellant was divorced on May 29, 1978. During this time the administrative Board interpreted legislation to require participation in the plan where a female's marital status changed from married to single. Instructions were provided to participating employees to that effect. The City admitted they made "an error" when they did not enroll the appellant. Steps were then taken to enroll the appellant and a billing was forwarded to the employer. Two invoices, one for the employer for $5,020.39 and one for the employee for $5,382.70 were sent by the Administration. [The appellant denied receiving the invoice]. Further correspondence occurred in which the employer disputed the date of her divorce. They claimed the date should have been September 1978 and therefore they should only be billed from September 1978 to May 1984. The City corresponded with Alberta Treasury, Payroll and Pensions Division (P &P) and stated that it was their view, based on information supplied by P & P, that the appellant was responsible for the prior service. Following this correspondence, P & P issued a credit note to the employer for $5,020.39. A second application was submitted by the appellant for recognition of her prior service. P & P issued a Notice of Cost for $11,222.18. Further correspondence resulted in P & P requesting a copy of the waiver signed by the appellant opting out of the plan. No such document was discovered in the file. The appellant wrote expressing concern about the billing and said she was not responsible for the employer portion. She claimed that she was not given information and was not enrolled by the employer. The appellant terminated employment with the City in January 1988.

APPELLANT'S CASE

A representative, on behalf of the appellant, recited the facts of the case. He stated that the procedure in place at the time of the divorce was that the employer was required to enroll the appellant. It admitted making an "error" when it did not. He stated that the appellant should only be responsible for the employee contribution subsequent to her divorce,based on the interpretation of legislation during the period in question. He argued that other women in similar circumstances would not have been required to contribute the employer portion.

INTERVENER

The City by correspondence stated that under the direction of Payroll and Pensions (E.I.L. #2/85), it was not responsible for the employer contributions during this period.

MINISTER'S CASE

A representative from P & P reviewed the history of married female employee participation in the plan. He stated that the Minister had refunded or issued credit notes on all cases where women were forced in under the policy prior to the 1985 change of interpretation as outlined in Pension Bulletin LA #2/85. [This position was later rescinded and the Minister made refunds only where the married female objected to being enrolled in the plan.] He stated that the employee was responsible for the employer portion.

DECISION

The Minister's decision was varied and the appellant was credited with service for the period May 30, 1978 to May 8, 1984. She was required to pay the employee contribution and interest only [based on historical salary], and the period, October 22, 1976 to May 29, 1978, was assessed as non-contributory service. The appellant was to make payment within 90 days of being advised of the required amount.

REASONS FOR THE DECISION

1. Interpretation of the legislation at the time of occurrence of the divorce was that on change of status the member must be enrolled in the plan.
2. The appellant was a victim of admitted administrative oversight and lack of communication by the employer.
3. The time, "while an opted out married female", requires the employee to pay both portions under the historical rules of participation.

MINUTE: L88:05:04

CASE SUMMARY 2

SUBJECT MATTER

An appeal against a decision of the Minister in respect of the acceptable date of birth for the commencement of pension benefits.

BACKGROUND

The appellant was employed from March 2, 1970 to February 11, 1977. When he ceased participation in the plan, he chose to have his contributions left on deposit for a deferred pension. In December 1978, four pension estimates were forwarded to him using a birth date of November 11, 1922 as a recognized date of birth. On January 28, 1980, the appellant submitted a passport which showed his date of birth as November 11, 1922. After receiving an estimate of his pension, the appellant contacted Alberta Treasury, Payroll and Pensions Division (P & P) and claimed that the date of birth was in error. The appellant requested that the date June 1921 be used as his official birth date for the payment of pension. He provided a certificate showing the year 1921. Pension was payable from June 12, 1987, the date the application was received. The pension options were provided in which the birth date of November 11, 1921 was officially accepted.

APPELLANT'S CASE

The appellant argued that the certificate showing the year 1921 as the year of birth was submitted to (P & P)and accepted, however, the November 11th date was in dispute. The appellant said that in his view it would be fair to accept a mid-point during the year since there was evidence showing that November 11 was not the actual day of birth. He said that he was a merchant sailor when his ship was sunk, and was rescued and taken to a port in Britain. Since he had no documents the papers filled out in Britain used November 11, (the date the ship was sunk), as the date of birth and the year 1922 was selected as the appellant had said that he was born sometime between 1920 and 1924. The appellant provided a Statutory Declaration showing he did not have any information to prove his date of birth. He said in the village of his birth they celebrated "name day" not birthday and at no time was he ever reminded of his actual day of birth. He related it seemed ludicrous to celebrate a birthday when you have one year less to live. Therefore "name day" was celebrated instead.

MINISTER'S CASE

The Minister's representative, argued that because the date November 11 was used for forty plus years it should be accepted as the official date of birth for pension purposes. He said the Minister was willing to adjust the actual year in light of additional documentation from 1922 to 1921. No documentation was provided to show a different day than November 11. He argued that using a date mid-way through the year would be no more accurate than the date November 11 on the passport. A passport is an acceptable proof of date of birth document and should be accepted by the Board.

DECISION

The Minister's decision was confirmed and the date November 11, 1921 was accepted as the date of birth of the appellant for pension purposes.

REASONS FOR DECISION

1. No evidence was presented to show that the date of November 11 was not a reasonable date and this date was used on the passport.

2. The date November 11 was held out by the appellant since 1943 as his date of birth.

L88:07:05

CASE SUMMARY 3

SUBJECT MATTER

The decision of the Minister on costing a period of prior service, June 17, 1974 - April 1, 1977, as non-contributory service requiring the appellant to pay both employer and employee contributions plus interest.

BACKGROUND

The appellant immigrated to Canada in 1974, and took a position in the housekeeping department. The hospital, under its procedure, required the appellant to serve a probationary period of one year before participating in the Plan. The appellant married during the probationary year of service. During the period in question, married female employees were excluded from participation in the plan unless they applied to participate. The appellant ceased employment with the Hospital in April 1977. She then pursued further education. She commenced employment with a City on November 8, 1982; and was enrolled in the LAPP. On June 25, 1984, Payroll and Pensions (P & P) received an Application for Recognition of Service for the following periods:

a. Hospital - June 17, 1974 - April 1, 1977,
b. City (part-time) April 8, 1982 - November 7, 1982, and
c. City (full-time) November 8, 1982 - November 26, 1982.

The cost of the service was determined and the employee was billed for both employee and employer contributions for the service with the Hospital and the part-time service with the City. The City notified P &P that the employee intended to pay for the service. She began payment during September 1984. The appellant also requested the employer pay all interest charges on the service.

APPELLANT'S CASE

The appellant stated that she was employed by the Hospital under her maiden name, subsequently married and that the records weren't changed to reflect the new status. The appellant stated she worked for the housekeeping department during her period of employment with the Hospital and was not aware of the pension plan. She denied receiving any employee orientation, except to have her locker pointed out. She denied receiving any information on the pension plan. She contended that when her probationary period expired, the employer should have provided counselling about her rights under the plan. The appellant claimed that it was not until she started with the City that she became aware that she had an option to participate in the plan. Only then she discovered that she could purchase the service. She contends since the Hospital had a responsibility to enroll her, it should be responsible for the employer contributions and all interest accrued.

THE HOSPITAL'S CASE

In writing and by telephone conversation with P & P, the Hospital claimed that it was unsure of the employee's status since she commenced employment using her married surname and was on part-time status during the time. The appellant was on leave of absence October 26, 1975 - February 19, 1976 and that they had discussed prepayment of benefits.

A letter was filed by the Hospital stating that:

(i) Without documents on opting-out or participation, it can only be assumed that she was not enrolled in the plan at her option because she was a married employee.

(ii) Evidence in her file reveals that she was enrolled in other benefit plans (3) before September 1975. The normal process was for all new staff to attend orientation at which time information and required forms were provided.

(iii) In the employer's opinion

(a) there was "an obligation on her part to inform the employer of any omission on their part," and

(b) it appears inconceivable that an employee would not have been "aware that a very attractive pension plan is available."

MINISTER'S CASE

The Minister's representative stated that with all the activity surrounding commencement of employment procedures, employees often forget major parts of the orientation interview. There was much information available about pensions and the Administration and employers can only provide the information, they cannot be sure the employees avail themselves of it. There was an onus on the appellant to act since, as a married female employee, she was required to apply to become a member of the plan. Since she did not, the cost for the prior service was proper and the appellant should pay both the employee and employer contribution, plus interest, to establish the service in question.

DECISION

That from the date of eligibility the appellant be required to pay the employee contributions and interest and the employer be required to pay the employer contributions and interest to establish the service June 17, 1974 to April 1, 1977 as pensionable and, that the time limits in which a person must pay the probation year be extended to accommodate the payment of employee contributions only. The appellant's request that all interest be paid by the employer was rejected.

REASONS FOR DECISION

1. No proof was presented that the appellant had received proper counselling on her rights and responsibilities under the Pension Act.

2. The employee should not be put in a better position than if she had been properly informed.

MINUTE: L88:01:02

CASE SUMMARY 4

SUBJECT MATTER

The decision of the Minister to provide a partial disability pension instead of a total disability pension requested by the appellant.

BACKGROUND

The appellant was employed as a fireman until September 9, 1987 when he was granted a partial disability pension based on a medical consultant's report.

APPELLANT'S CASE

On behalf of the appellant evidence was presented on the medical reports from both the City's medical consultant and the appellant's doctors which showed he was unable to pursue gainful employment. A member of the City's Fire Fighters Union testified that the appellant attempted but was unable to perform the duties of a position in the Map or Dispatch Section of the Department.

THE MINISTER'S CASE

The Minister's representative presented his view as follows:

> He explained that the procedure in dealing with disability pension applications was to forward the medical information provided by the applicant to their medical consultants for adjudication. The department did not have the resources to have the applicant examined by an independent physician. He stated that the department's decision to grant a partial disability pension was based on the interpretation of its physicians and in particular the medical consultant's opinion of October 7, 1987.

DECISION

The Minister's decision was vacated and the appellant was granted a total disability pension effective September 9, 1987. Later, the date was changed to September 12, 1987 since it was determined that he terminated on September 11, 1987.

REASONS FOR DECISION

1. The expert medical evidence clearly showed that the appellant was totally disabled.

2. Both the Canada Pension Plan and London Life Insurance Company considered the appellant totally disabled.

MINUTE: L88:02:02, L88:04:04

CASE SUMMARY 5

SUBJECT MATTER:

The Minister's decision to deny to upgrade the appellant's pension from a partial disability to a total disability.

BACKGROUND

The appellant was employed by a Municipal District as a grader operator. On August 25, 1982 he ended his employment with the Municipal District (M.D.). The Administration received an application for a disability pension and medical statements one of which said that there was insufficient medical evidence to warrant a retirement. The Administration advised the participant that his request for disability pension had been denied on the basis that the medical evidence was not sufficient to warrant granting of a disability pension. Approximately 1 year later the participant forwarded another letter to Payroll and Pensions, Alberta Treasury (P & P) requesting consideration of his application for early retirement on disability grounds. Evidence received from a Doctor showed the illness was a degenerative disc disease in the lower back and confirmed that he considered the medical evidence supported partial retirement. The Administration advised the participant that he was granted a partial disability effective October 11, 1984. The appellant received his pension choice information and was advised that if in the future he became totally disabled he would be able to apply for a pension upgrade. On June 9, 1986 the appellant applied to the Minister to have his pension upgraded from a partial to a total disability on the basis that he could not pursue employment due to health reasons. A medical report was attached. The Minister forwarded his application to the medical consultant who confirmed that an upgrade was not recommended on the basis that, while stressful work should be avoided, this does not mean that the employee cannot do any work. The appellant met with a counsellor at P & P and said that: a) he required higher income; b) he was not able to work, although he had tried several times; c) his combination of age, medical history and education made it impossible for him to obtain gainful employment. In July of that year the appellant was advised that his request for an upgrade in pension was denied. The Board reviewed the information at a hearing in February 1987, however, it considered that the medical information was outdated and that additional information should be obtained and forwarded to the Minister for reassessment. Medical information was received in December 1987 and March 1988. The information was forwarded to the Minister who again referred the matter to his medical consultant was advised that the evidence presented did not warrant a total disability.

APPELLANT'S CASE

The appellant in writing continued to hold that he was unable to obtain gainful employment due to his medical condition. He said that for the last two years he was unable to do work on heavy machinery because of his medical condition. He also said that because of his lack of education and his medical condition, work is not available to him. He concluded that he needed additional money for living expenses and therefore requested a total disability.

MINISTER'S CASE

A representative appeared on behalf of the Minister and held that the evidence presented in the appellant's case was not enough to warrant a total disability. He stated that the medical evidence presented by the doctor supported a degree of disability, however, the disability is not severe enough and it was the opinion of the medical consultant and of the Minister that the appellant would be able to obtain other employment.

DECISION

The Minister's decision was confirmed and the appeal was denied.

REASONS FOR DECISION

Medical evidence presented did not support that the appellant's condition had deteriorated to a point where he was unable to obtain gainful employment.

MINUTE: L88:06:01/L87:02:06

CASE SUMMARY 6

SUBJECT MATTER

The actuarial factor used in converting the normal pension to a joint life non-reducible pension.

BACKGROUND

The appellant was employed by a Housing Authority from August 28, 1972 to February 23, 1988 when he retired. Several times between March 26, 1982 and June 16, 1987 pension estimate requests were made by the appellant. In each case the appellant was provided information on the pension. On April 11, 1983 he requested information about the options available and whether or not they are guaranteed for life. If a joint life option is chosen and if they could be coordinated with the Old Age Security (OAS) and the Canada Pension Plan (CPP). The appellant provided his spouse's birth date to get a joint life option because of the spousal protection clause in the plan. The information was sent to the individual showing the retirement date September 3, 1986 as an estimate, based on his age 63 years 6 months and his spouse's age 44 years 6 months. All options for the joint life were provided. The factors used were joint life non-reduced .7170, joint life reduced by 1/3 .7992, joint life reduced by 1/2 .8477. On September 4, 1987 the employer contacted Alberta Treasury, Payroll and Pensions Division (P & P) for the conversion factor of joint life reducible by 1/3 for a male age 65 and a female age 46. The factor provided to the employer was .7904. P & P was asked by the employer to forward an estimate of the pension. In September 1987 the estimate was sent to the employer showing a male age of 65 and a spouses age of 45 years and 8 months for the normal option and joint life option non-reducible. The factor used to convert the normal pension to joint life option in the estimate was .7058. On October 6, 1987 the appellant corresponded with (P & P)enclosing several attachments questioning the estimate, specifically the appellant asked why the factor of .7058 was used when the employer advised that the factor was to be .7904. The appellant also requested an estimate for joint life reducible by 1/3. He attached an estimate calculated by the employer and the estimate prepared by P & P. On November 13, 1987 the full option package was forwarded to the employer. On November 17, 1987 a letter was sent to the appellant with a copy to the employer stating the figure provided in the estimate of September 24, 1987 was for a joint life non-reduced pension using the factor of .7058. The letter further stated that the factor of **.7904 is a joint life reduced by 1/3**. The appellant chose a joint life non-reduced pension. After making the choice, the appellant continued to dispute both contribution deficiency and the actuarial factor used to establish the joint life non-reduced pension. On May 27, 1988 the appellant wrote P & P saying he would be filing an appeal. When questioned about his reason, he claimed that he was concerned that the employer quoted a joint life factor of .7904 and P &P did their calculation on the joint life factor of .7058 and that since he had been given a pension estimate based on the higher amount, he should be provided with that pension because he made his decision to retire based on the total amount of pension he would be able to receive.

APPELLANT'S CASE:

The appellant in writing argued that:

1. When he commenced paying into the Local Authorities Pensions Plan (LAPP) the spousal protection was not part of the plan at the time.

2. That the spousal protection was put into the plan with no consultation with the people it would affect and there was very little information provided on this change.

3. The change gave no consideration for employees who belonged to the plan before including the spousal agreement and it was his view that people

who entered into the employment contract before the change should not be bound by it.

4. His employer did not have a properly informed pension clerk available and consequently much of the information relayed to him was incorrect.

5. When the employer offered an early retirement package, he then made comparisons to determine what financial benefits he would get by accepting or rejecting the early retirement. Part of that was to consider the benefit he would receive under the pension plan. He was assured that when he retired his pension would be about the amount advised in the estimates, give or take a few dollars. This information was provided by individuals on whose advice he should have been able to rely.

6. The Handbook provided is misleading in that many of the charts included did not mention there were additional reductions for people of different ages.

7. The fact that he married a woman nineteen years his junior should not be grounds to affect his pension. And that the Handbook provided the lowest factor for a person much older than his spouse.

8. That the pension plan infringed on his rights in that they show predjudice against contributors to the pension fund who marry individuals much younger than themselves. He concluded by saying that even though he felt his case was weak, because of the fact he relied on information provided to him by the appropriate authority and received an estimate of a pension much higher than what he finally could get, the Board should vacate the Minister's decision and allow him to have the higher pension.

MINISTER'S CASE

The Minister's representative said that several estimates were forwarded to the appellant providing different dates of retirement and scenarios of retirement. Between July to September 1987, the employer was contacted and provided a factor that included joint life reduced by 1/3. The employer seemed to be confused and may have provided the wrong information. During September the appellant was provided with details of the amount he could expect to receive. The individual had all the information well in advance of his retirement and should have been able to take the necessary steps to mitigate any perceived loss. The individual was able to obtain, if he wished, a joint spousal waiver in order to choose an option other than the joint life or the joint life reducible option. He was provided with this information and chose not to exercise that right.

DECISION

The Minister's decision was confirmed and the appellant was given the opportunity to choose a different option under the plan.

REASONS FOR DECISION

The appellant had an opportunity to clarify the issue well before retirement and the actuarial option table was correctly applied by P & P.

MINUTE: L88:11:02

CASE SUMMARY 7

SUBJECT MATTER

An appeal against the decision of the Minister denying recognition of acting "pay" for firefighters as pensionable earnings under the Local Authorities Pension Plan.

BACKGROUND

Firefighters, because of the nature of their employment are required to act in a more senior capacity, for which they receive remuneration. The requirement to do so is found in their contract of employment and each firefighter is expected to take examinations and pass tests and serve in an acting capacity for several years.

APPELLANT'S CASE

The Firefighters Associations representative argued there is a proven 13% vacancy, illness or holidays factor in each year in the Fire Department. Members of the department are required to act in an acting capacity, for which they are paid. He stated that a firefighter must serve in this capacity to gain experience to qualify for promotion. He underlined the fact that the acting service is mandatory and cannot be refused by an individual. It is not temporary and is not dependent upon an individual case. He stated that most individuals in the Fire Department will act from 2-4 years in an acting position. A good number of acting firefighters fill senior positions, however, as the rank increases the number of positions decrease and therefore many firefighters will not be able to attain the highest rank. He said the pay is consistent and is paid regularly once the individual is qualified to act in an acting capacity. He stressed that most of the benefits provided by the City are based on the acting pay once the individual reaches 50% in an acting capacity. Once that happens, all the benefits are calculated as if he were in full-time position at that level for the whole period in question.

INTERVENER'S CASE

The employer's representative stated that the City supports the position of the Firefighters Association and restated the fact that people acting for a long period should receive the benefit. She said the City supports the 50% rule which would allow contributions be made to the pension plan at the higher rate for the full year once the individual reaches the 50% of the year in an acting pay. She said that a precedent had been set in that pay in lieu of statutory holidays taken had already been granted. She says there are between 73 and 93 individuals who act for more than 6 months in each year. Most of these would be permanently promoted.

MINISTER'S CASE

The Minister's representative stated that the position taken by the Minister is still firm in that acting pay is not paid on a uniform and consistent basis in each pay period and would not conform with the regulation. Acting, he claimed, is triggered by absenteeism and therefore not regulated. The 50% rule is proof of this factor.

DECISION

The Board ruled that the Minister's decision be vacated and that acting pay, as defined in the current contract of employment between the Firefighters and the City, be considered as salary for pension purposes.

REASONS FOR DECISION

1. The acting pay is a component of compensation that is paid on a consistent and regular basis.

2. Manipulation of acting pay is not possible by either party since it is authorized and controlled under a very stringent and existing contract.

3. It is predictable and is included for other benefits.

4. It is mandatory - firefighters cannot refuse to serve in an acting capacity.

MINUTE: L88:11:04

ADVICE

One of the major functions of the Board is to advise the Minister on all aspects of the plan.

Because of the ongoing review of public service pensions being conducted by the Government, the Board limited its advice to the Minister on the plan to two issues--

1. Cost of Living Adjustments, and
2. The Actuarial Valuation.

COST OF LIVING ADJUSTMENT

1986

Two aspects of this topic were commented upon during the year. In January , the Board expressed disappointment that the adjustment for 1986 was restricted to approximately 60% of the Calgary/Edmonton Average (Alberta CPI) of the Consumer Price Index.

The Board had recommended an adjustment of 75% of the Alberta CPI. The Government chose to make an adjustment at 2.5%.

The Board was concerned that the valuation used an assumption of 75% of the Alberta CPI in establishing the liabilities of the plan. Since this is a fact, the Board considered that adjustments should be maintained at a consistent level.

The Board restated its position that the formula for COLA should be encoded in the legislation.

1987

For 1987, the Board proposed that an adjustment of 2% be granted. This adjustment was more than 75%, however, the Board considered it appropriate since during the previous year the adjustment was somewhat less.

In making its recommendation, the Board considered the adjustments made by other public service bodies in Canada together with the historical adjustments that have been made to the Alberta Plan.

The following chart shows a comparison for the years 1970 - 1988.

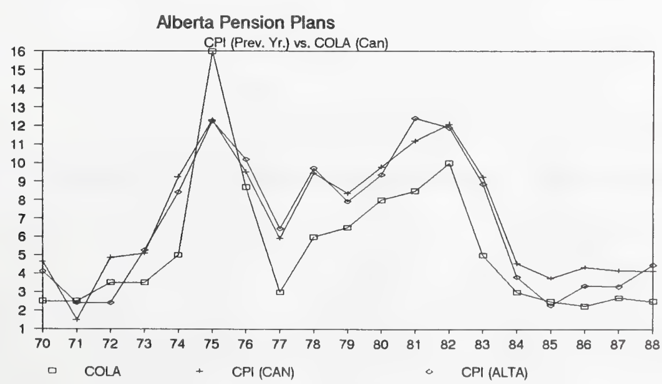


Table 8

COMPARISON WITH PUBLIC SECTOR PLANS

The policy of the Government of Alberta to adjust pensions for inflation is generally in line with the policy of other provinces and the Government of Canada.

The Governments of British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Quebec have statutory provisions for automatic indexing of pensions in relation to increases in CPI. In Ontario and P.E.I. such indexing is limited to a maximum of 8% in a year. If the CPI increase exceeds 8% or is negative, the difference is carried forward and applied in a later year. New Brunswick and Nova Scotia provides full indexing to a maximum of 6% in a year. British Columbia has no such ceiling but based on funds available in its pension adjustment account has provided full inflation protection. The Government of Quebec, since July 1, 1982, has provided increases equal to those under the Quebec Pension Plan less 3%. Manitoba has a complex formula based on increases in CPI and funds.

The Government of Canada introduced legislation in December 1986 to reform the pension plans of the public service employees, R.C.M.P., and Canadian Forces. It is proposed that full indexing for the portion of pension before the effective date be guaranteed to current employees. Full inflation protection would not be guaranteed for service from the date of change, but to the extent that economic experience assumed in funding the plan is realized, such protection would be available.

The Coward Report to the Treasurer of Ontario dated August 1987, addressed several issues relating to indexing under the pension plans for Ontario public servants and teachers. It stated that the present formula for COLA is reasonable and recommended it should be retained. It also recommended that the "COLA Fund" be amalgamated with the basic fund and that the basic benefit and COLA should be recognized and costed as a single benefit.

Alberta and Newfoundland are the only provinces where participants are not assured COLA either by a pre-determined statutory formula, or on the basis of funds available to fund adjustment. The new pension plan in Saskatchewan is a money purchase plan i.e. pension benefits are provided based on contributions and fund earnings.

The table on the following page shows the COLA basis and funding arrangements for a number of public sector plans.

TABLE 9

Pension Adjustment Arrangements in the Public Sector

Jurisdiction	Basis	Funding Arrangements
1. British Columbia	Regular increases are based on full CPI subject to the ability of the funds set aside for that purpose.	Separate pension adjustment account to which employee and employer contribute 1.25 percent of salary. In addition, excess interest on pensions already granted is transferred to this account.
2. Canada (Federal)	Regular increases based on full CPI (October to September)	Separate pension adjustment account to which employee and employer each contribute. NOTE: Changes are pending to the Federal Plan.
3. Manitoba	Effective July 1 of each year, COLA adjustments are made based on the lesser of the CPI increase which could be paid without resulting in an unfunded liability in the adjustment account.	10.2 percent of emplyees' annual contributions are allocated to a superannuation indexing adjustment account.
4. New Brunswick	Regular increases based on CPI up to a maximum of six percent.	Separate pension adjustment account maintained to which employee and employer contribute.
5. Newfoundland	Ad hoc adjustments based on annual review.	No separate fund, paid out of existing basic fund.
6. Nova Scotia	Same as New Brunswick.	Same as New Brunswick.
7. Ontario	Regular increases based on CPI to a maximum of eight percent a year, with a carry forward.	Separate pension adjustment account to which employee and employer each contribute one percent of salary. NOTE: Under review.
8. Prince Edward Island	Same as Ontario.	Same as Ontario.

9. Quebec	Regular increases based on indexing percentage of QPP for service before July 1, 1982. Pension for service after July 1, 1982 is given increases based on indexing percentage of QPP less three percent.	The cost is incorporated into the current contribution rate.
10. Saskatchewan	'Old' Plan - ad hoc increases equal to or less than CPI. 'New' Plan - N/A.	No separate fund, paid out of the basic fund.
11. Ontario Municipal Employees Retirement System (OMERS)	Ad hoc increases are provided in accordance with the stated policy to provide at least 60 percent of the CPI.	Excess earnings formula is used as an internal policy for indexing. The base rate is six percent.
12. Teachers' Retirement Fund (Alberta)	Ad hoc as authorized by the Lieutenant-Governor-in-Council. In practice, COLA increments have approximated those granted under the Alberta Government administered pension plans.	No separate fund. Current employee and deemed employer contributions do not cover the entire cost of COLA.
13. Alberta Government Telephones	COLA increase is limited to the amount which can be financed by the supplemental benefits account, to a maximum of 70 percent of CPI.	Supplemental benefits account to which employee and employer each contribute .69 percent of salary is used to pay adjustments provided.

ACTUARIAL REPORT

During the year the Board met with representatives of Alberta Treasury and their Actuary, The Wyatt Company. The meeting was held in response to concerns raised by the Board about the assumptions and to provide the Board an opportunity to comment on the assumptions and method used as well as the conclusions of the report.

The Board members were advised that assumptions and methods used in valuations of pension plans depend upon the the report's purpose. As an example:

> A more conservative set of assumptions or method would be used to provide a safe funding margin, or to determine the maximum exposure a sponsor may have to the commitments made under the plan, whereas more realistic assumptions would be used to establish the appropriate contributions to meet the current service costs of the plan. A change in the real rate of return from 2.5 to 3% would significantly reduce the cost of the plan.

When considering the previous report, the Board had taken a strong position in respect of the inappropriate method and assumptions used. They obtained an independent assessment of the method and assumptions from the Alexander Consulting Group, who had confirmed the concerns expressed by the members of the Board. The Board continues to take the position that more realistic assumptions must be used in assessing the cost of the plan for the purpose of establishing the true current service costs.

A commitment from Treasury representatives that the purpose of the study was to "**determine the Government's financial exposure and the accrued liability in the long run in respect of the Pension Plan**", provided some comfort when it became clear that the method or assumptions would not be changed. The Actuary proceeded to defend the assumptions and method used in light of the mandate provided to him by Alberta Treasury. He reiterated that his mandate for the study was to **"establish the Government's financial liability for the plan and not to adjust the contribution rate".** The Board requested that the statement on the purpose of the study be included in the body of the report to insure that it would not be misinterpreted or used to identify the current service cost of the plan. The Actuary confirmed that, even though cost of living adjustments are made on an ad hoc basis, an assumption of 75% of the Consumer Price Index is used. The Actuary confirmed that by changing the actuarial method from the normal actuarial cost method to a less conservative entry age or unit credit cost method would probably produce a 1-2% reduction in the percentage of salary required to fund the plan.

Actuarial cost methods allocate the expected cost of a pension plan to specific time periods. Although the true cost of the pension plan will not be determined until the last pensioner dies, estimates must be made and revised as experience evolves under the plan. The cost allocated to time periods by the actuarial cost method is used as the basis for contributions to the plan and for accounting charges in financial statements. There are a number of other factors which should be taken into account in determining the actuarial cost method including such things as the desired stability of future contribution levels, the demographic make-up of the group presently and expected in the future, the actual value of the pension benefits provided, specific statutory requirement, and alternative uses of contributions by the plan sponsor. The above list is not all inclusive but provides an indication of the many factors that need to be taken into account.

For the public sector plans in Alberta, the two major factors to be considered are the degree to which pension costs are to be matched to services rendered by plan participants and the desired stability of future current service costs. Generally, these factors conflict. That is, the more emphasis placed on one, the less success is achieved with the other.

The Board has taken a position that the Actuarial Study if used for the purpose stated is acceptable. However, it strongly opposes to using the report to determine the viability of the plan. It recommends that a study be conducted to deal solely with future service costs of the plan . This would require using a method similar to the Attained Age or Unit Credit Actuarial Cost Method and assumptions that are more reflective of today's conditions. It also considers that the inflation adjustment formula must be stated in legislation in order to insure the benefit being paid will be delivered.

It is the view of the Board that the plan is very close to being funded for current service costs based on the benefits provided and the cost of living adjustment. With this view in mind the Board considers that only minor realignment of the benefits may be necessary.

SUMMARY OF MAJOR BENEFIT PROVISIONS

This summary does not constitute a legal interpretation of the Local Authorities Pension Plan Act. The Act and regulations thereto should be reviewed for an interpretation in any specific circumstance.

The Local Authorities Pension Plan Act authorizes a pension plan for payments of pension and related ancillary benefits to employees who are eligible to participate in the Plan.

ELIGIBILITY FOR PARTICIPATION

Persons eligible to participate in the Plan include full-time, part-time and other employees as defined in the Act.

CONTRIBUTIONS

Employees and employers are required to make current service contributions in accordance with the schedule in the table below.

Contributions are not required to be made after 35 years of pensionable service.

Employers are required to contribute amounts as prescribed in respect of prior service.

CREDITED INTEREST

For the purposes of determining lump sum cash benefits or transfer amounts, interest is credited on employee contributions at the rate of 4% per annum, compounded semi-annually.

NORMAL RETIREMENT AGE

The normal retirement age is 65. The effective date of commencement of pension is the day after the person ceases to be an employee.

NORMAL RETIREMENT BENEFIT

The benefit payable at normal retirement is an annual pension equal to

2% of pensionable salary multiplied by years of pensionable service prior to January 1, 1966, plus

the sum of 1.4% of pensionable salary up to the average YMPE and 2.0% of pensionable salary in excess of the average YMPE, multiplied by years of pensionable service on or after January 1, 1966.

Contribution Table

	Employee		Employer	
	On Salary Up to YMPE	On Salary Over YMPE	On Salary Up to YMPE	On Salary Over YMPE
1985	3.675%	5.25%	4.675%	6.25%
1986	3.850%	5.50%	4.850%	6.50%
1987	4.025%	5.75%	5.025%	6.75%
1988	4.200%	6.00%	5.200%	7.00%
1989 and after	4.375%	6.25%	5.375%	7.25%

YMPE is the Year's Maximum Pensionable Earnings for each calendar year as defined in the Canada Pension Plan.

Pensionable service does not continue to accrue after 35 years have been accumulated.

Pensionable salary is the participant's average annual salary in the 5 consecutive years in which his or her average salary was the highest.

Average YMPE is the average of the Year's Maximum Pensionable Earnings under the Canada Pension Plan in the 5 years preceding date of termination of employment.

Pensionable service includes:

- service after March 31, 1962 in which current service contributions have been made;
- one-half of service before April 1, 1962 which if such service had been after March 31, 1962 would have been pensionable service.

NORMAL FORM OF PENSION

The pension is payable for the lifetime of the pensioner or 5 years, whichever is longer. If the pensioner has a spouse, he or she will be deemed to have chosen a joint life pension with two-thirds continuing to the surviving spouse. Such joint life pension will be actuarially equivalent to a pension payable for the lifetime of the pensioner, guaranteed 5 years. Optional forms of payment on an actuarially equivalent basis are available subject to the completion of a spousal waiver form.

BENEFITS ON EARLY RETIREMENT

A participant who ceases to be an employee after attaining age 55 and whose age and pensionable service total 85 or more is entitled to a normal retirement pension commencing immediately or to transfer his or her own contributions with interest, plus any amount transferable under a reciprocal agreement, to another registered pension plan.

A participant who ceases to be an employee after attaining age 55 and the completion of 5 years of pensionable service, but whose age and pensionable service do not total 85, may elect to receive a pension commencing immediately that is actuarially equivalent to the pension that would be payable if his or her age were the lower of 65 or 85 less pensionable service. In practice, only one-third of the full actuarial reduction is applied.

BENEFITS ON DISABILITY

An employee or a person entitled to a deferred pension who is totally disabled, has completed 5 years of pensionable service, and is not receiving benefits under an approved disability plan is entitled to receive a normal pension.

A person who satisfies the above conditions but is partially disabled is entitled to receive a pension that is actuarially equivalent to the pension that would be payable if his or her age were the lower of 65 or 85 less his or her pensionable service. In practice, only one-third of the full actuarial reduction is applied.

A person who is receiving benefits from an approved disability plan is not entitled to receive concurrently a pension from the Plan. While in receipt of benefits from an approved disability plan, participation in the Plan continues. Salary, for the purpose of current service contributions or for the purpose of determining any pension to which the participant may subsequently become entitled, is the salary that was being earned immediately before disability benefits commenced, increased by any subsequent general increases applicable to his or her class of employment.

BENEFITS ON DEATH BEFORE RETIREMENT

On death prior to retirement of an employee or former employee who has contributions in the Plan and who has

(a) no surviving spouse or dependent children, the beneficiary is entitled to a payment equal to employee contributions with interest;

(b) a surviving spouse or dependent children, the spouse or children are entitled to a payment of 2 times employee contributions with interest.

If the deceased had completed 5 years of pensionable service the surviving spouse may elect in lieu of (b) above:

(i) a pension for life calculated as though the employee or former employee had retired on the day before death and elected a joint pension with 100% continuing on his or her death; or

(ii) a pension with a guaranteed term or a pension for life, with or without a guaranteed term, that is actuarially equivalent to (i) above.

BENEFITS ON TERMINATION OF EMPLOYMENT

On termination of employment before the completion of 5 years of pensionable service, a participant has the option of

- receiving a refund of employee contributions with interest;
- transferring employee contributions with interest plus any other amount transferable under a reciprocal agreement to another registered pension plan.

On termination of employment after the completion of 5 years of pensionable service but before entitled to receive an immediate pension, a participant has the option of:

- receiving a refund of employee contributions with interest;
- transferring employee contributions with interest, plus any other amount transferable under a reciprocal agreement, to another registered pension plan;
- receiving a pension commencing at or after age 55 that is actuarially equivalent to pension that would be payable if his or her age were lower of 65 or 85 less pensionable service. In practice, only one-third of the actuarial reduction is applied.

COST-OF-LIVING INCREASES

The Lieutenant Governor-in-Council, by regulation, may make adjustments in the pensions currently payable to pensioners and beneficiaries and in the pensions currently deferred to commence at some later date to maintain approximate parity with the cost of living.

EXCERPTS FROM THE LOCAL AUTHORITIES PENSION PLAN ACT

Division 2

The Local Authorities Pension Plan Board

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Local Authorities Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants and another from among persons nominated by the employers.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.

Chairman and vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.

Support Services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Advisory functions of the Board

9 The Board may advise the Minister respecting any matters relating to the Plan, including

(a) the adequacy of contributions to meet benefits,
(b) adjustments to pensions under section 27,
(c) rates of interest for the purposes of the Plan,
(d) benefits,
(e) reciprocal agreements,
(f) recognition of prior service,
(g) eligibility and participation in the Plan, and
(h) the actuarial tables prescribed or to be prescribed by the Minister.

Board's power to extend time limits, etc.

10(1) Where

(a) a person fails to meet a time limit under the Plan,
(b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and
(c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,
(b) the benefit has been received or has commenced to be paid, and
(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and
(b) the Board is satisfied that
   (i) the choice communicated to the Minister was not that which the person making the choice actually intended, and
   (ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked and substitute for it the choice which, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

PART 6
APPEALS

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.

(3) The notice of appeal must specify the decision appealed against and the grounds of appeal.

(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.

(5) For the purposes of conducting an appeal under this section, the Board

(a) has all of the duties, power, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and

(b) shall be deemed to be a person authorized for the purposes of section 1(a) of the Administrative Procedures Act.

(6) The Board may confirm, vacate or vary the decision appealed against.

(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

Appeal to the Court of Queen's Bench

36(1) A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.

(2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.

(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.